

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2002-04

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-129-01

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [XX] Temporary [] Emergency []

Brief description of action: Petition 2002-04 (LCB R-129-01) is a permanent amendment to NAC 445A.119 through 445A.225, the pollution control standards for water quality. The permanent regulation establishes water quality standards for Walker Lake. The regulation establishes beneficial uses and water quality standards to protect those uses. Standards for Walker Lake include pH, dissolved oxygen, total suspended solids, temperature, dissolved oxygen, nitrite, total inorganic nitrogen, total phosphorus and E. Coli were established.

Authority citation other than 233B: NRS 445A.425 and 445A.520

Notice date: November 12, November 21 and November 29, 2001

Hearing date: December 11, 2001

Date of Adoption of Agency: December 11, 2001

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 2002-04 LCB File R-129-01
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A. This regulation deals with amendments to the water quality standards for the Walker Lake.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2002-04 (LCB File R-129-01), was noticed three (3) November 12, November 21 and November 29, 2001 as a permanent regulation in the Las Vegas Review Journal and the Reno-Gazette-Journal newspapers. Regulatory workshops were conducted by the Nevada Division of Environmental Protection's Bureau of Water Quality Planning on October 4, 2001 in Hawthorne and Yerington. The regulation was adopted by the State Environmental Commission as a permanent regulation on December 11, 2001. There were 7 oral comments opposing and 1 supporting the regulation that were received by the Commission during permanent adoption. The opposing comments focused upon the political intervention by the State Legislature into the standards process, that the proposed regulations for Walker Lake does not meet the criteria of the Clean Water Act, that Total Dissolved Solid, chlorides and arsenic needs to be incorporated into the regulation. The Commission was encouraged to re-adopt those standards established by the Commission in February, 2001. Those opposing stated that the beneficial uses will be adversely affected without a standard for Total Dissolved Solids. Others stated that the standard setting process should be halted and that any standard set must be enforceable and wait until the pending litigation over the Walker Lake is settled. Representing the opposition comments were the Sierra Club, the Walker Lake Working Group, and the Dynamic Action Group of Wells (DAWG). Oral comments were received from the Walker Lake Irrigation District supporting the standards as presented. Written comments were received from a citizen (exhibit 8) complaining that the standards would impact alfalfa and milk production in Smith Valley, and from the Walker Lake Irrigation District (exhibit 16) was a letter of support of the water quality standards. Written comments were also received from the U.S. Fish and Wildlife Service (exhibit 11) requesting that a standard for total dissolved solids be established, and that the temperature standards and dissolved oxygen standards should be applied uniformly through all strata of the Lake. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3118, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	48
(b)	Testified at each hearing;	8
(c)	Submitted to the agency written comments:	3

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral testimony or written comments were received that opposed or supported the regulation during permanent adoption. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted by the State Environmental Commission on December 11, 2001 with proposed amendments.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

The proposed regulations do not directly regulate businesses, therefore, they are not expected to have any direct economic effect on the regulated community. In the long-term, there is a possibility of secondary adverse economic effects on the agricultural community if the proposed standards are used by other government agencies to acquire water rights for the benefit of Walker Lake. Conversely, the long-term protection of Walker Lake will have a beneficial economic effect on tourism related businesses.

(b) Estimated economic effect on the public;

The regulation is not expected to have any economic effect on the public both immediately and long-term.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for implementation of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The federal government has delegated the responsibility of establishing water quality standards to the state, therefore, there is no federal regulation for water quality standards for the Walker River Basin.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The amended regulations do not provide a new fee nor amend existing fees.

#

ADOPTED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R129-01

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted. Materials that contains ~~text~~ is deleted language and language underscored is new language added at the Environmental Commission hearing on December 11, 2001.

Deleted: ~~strikeout~~

Deleted:

Deleted: ¶

AUTHORITY: §§ 1-4, NRS 445A.425 and 445A.520.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as Sections 2 and 3 of this regulation.

Sec. 2. *The standards of water quality for the Walker Lake are prescribed in Section 3 of this regulation. The beneficial uses for this area are:*

- 1. Recreation involving contact with the water;*
- 2. Recreation not involving contact with water;*
- 3. Propagation of wildlife; and*
- 4. Propagation of aquatic life, and more specifically, the species of major concern are the tui chub, the Tahoe sucker, and adult and juvenile Lahontan cutthroat trout.*

Sec. 3.

STANDARDS OF WATER QUALITY *Walker Lake*

Control Point at Walker Lake. The limits of this table apply to Walker Lake.

PARAMETER	REQUIREMENTS TO MAINTAIN EXISTING HIGHER QUALITY	WATER QUALITY STANDARDS FOR BENEFICIAL USES	BENEFICIAL USES AS DESIGNATED IN SECTION 2 OF THIS REGULATION (Most Stringent Use Listed First)
<i>Temperature ^(a) Single Value</i>	--	$\Delta T \leq 2^{\circ}\text{C}$	<i>Propagation of aquatic life.</i>
<i>pH Single Value</i>	--	<i>Within Range 6.5 - 9.7 SU</i>	<i>Propagation of aquatic life, recreation involving contact with the water and propagation of wildlife.</i>
<i>Dissolved Oxygen ^(b) Single Value</i>	--	$\geq 5 \text{ mg/l}$	<i>Propagation of aquatic life, recreation involving contact with water, recreation not involving contact with water, and</i>

			<i>propagation of wildlife.</i>
<i>Suspended Solids Single Value</i>	--	$\leq 5 \text{ mg/l}$	<i>Propagation of aquatic life.</i>
<i>Nitrogen Species as N</i>	<i>Total Inorganic Nitrogen:</i>		Propagation of aquatic life and propagation of wildlife.
	$\leq 0.3 \text{ mg/l}$	<i>Nitrate $\leq 90 \text{ mg/l}$ Nitrite $\leq 0.06 \text{ mg/l}$</i>	
<i>Single Value Single Value</i>			
<i>Total Phosphorus as P Single Value</i>	--	$\leq 0.82 \text{ mg/l}$	<i>Propagation of aquatic life.</i>
<i>Escherichia Coli <u>Annual Geometric Mean</u> Single Value</i>	-- --	$\leq 126 \text{ MF/100 ml}$ $\leq 235 \text{ MF/100 ml}$	<i>Recreation involving contact with the water and recreation not involving contact with the water</i>

Deleted: 0.18 mg/l

Deleted: Annual Average

Formatted

Deleted: 30-day Log Mean

a. Maximum allowable increase in temperature above water temperature at the boundary of an approved mixing zone.

b. When lake is stratified, the dissolved oxygen applies only to the epilimnion.

Sec. 4. NAC 445A.070 is hereby amended to read as follows:

445A.070 As used in NAC 445A.070 to 445A.348, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.071 to 445A.116, inclusive, have the meanings ascribed to them in those sections.

####